

March 5, 2002



Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Re: Open Access Notice of Inquiry, GEN Docket 00-185

Dear Ms. Salas:

On March 4, 2002, Cheryl A. Leanza held a telephone conversation with Susanna Zwerling and Jordan Goldstein of Commissioner Copps Office with respect to the above-captioned proceeding.

I explained that nondiscrimination obligations for cable systems that offer Internet access are critically important regardless of which regulatory classification the FCC chooses for Internet access over cable. Multiple ISPs will produce diversity of information, improved service quality and lower prices.

In addition, I reiterated our position that the obligations of common carriage arise when a company enters the marketplace and chooses to offer a service in a particular manner. Under the standard in *NARUC v. FCC*, 525 F.2d 630, 641-42 (D.C. Cir. 1976), no regulatory action is necessary for a company to become a common carrier. Once a carrier is offering common carriage services, the FCC's *Computer Inquiry* obligations apply. Further, the critical policy consideration controlling when unbundling should be required should be ownership of facilities, not whether service provided over those facilities are bundled with other product offerings.

Sincerely,

Cheryl A. Leanza
Deputy Director

cc: Jordan Goldstein
Susanna Zwerling